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IN THE

Supreme Court of the United States

October Term, 1978

No. 78-283

RALPH F. BRINEGAR, ET AL,
Petitioners,

versus

METROPOLITAN BRANCHES OF THE DALLAS N.A.A.C.P., ET AL,
Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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INDEX

Opinion Below 2
Jurisdiction 2
Questions Presented 2
Constitutional and Statutory Provisions Involved 4
Statement of the Case 4
1. Findings regarding vestiges of a dual system 4
2. Findings of no vestiges of a dual system 5
3. Effect of Desegregation Plan on urban renewal and rehabilitation of inner-city neighborhoods in Dallas 6
4. Trend toward either naturally integrated or predominantly minority schools 7
5. The District Court recognized the DISD's efforts to improve educational opportunities for all students and in particular to meet the special needs of minority students 8
6. District Court sought and obtained community help in formulating and implementing a desegregation plan, and in doing so accomplished a highly sophisticated balancing of the many tools available and competing ideas and interests of various groups 10
7. Implementation of the Plan was nonviolent and did not polarize the community 11
Reasons for Granting Writ of Certiorari 12
Conclusion 14
Proof of Service 15
Appendix A — Memorandum Opinion, July 16, 1971

CITATIONS

Cases:

Austin Independent School District v. United States, 429 U.S. 990 (Austin II) 3, 8, 12, 13

Dayton Board of Education v. Brinkman, U.S. , (97 S.Ct. 2766) (Brinkman) 3, 13

Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1 (Swann) 3, 12, 14

Washington v. Davis, 426 U.S. 229 ..... 3, 13

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These Petitioners, Ralph F. Brinegar, et al, are members of a group of persons* allowed to intervene by the District Court on behalf of themselves and others similarly situated and reside in and represent persons residing in an area of the City of Dallas found by the District Court to be naturally integrated. These Petitioners have been

*Three Blacks, four Mexican Americans, ten Anglos

referred to in the proceedings below as the Brinegar Intervenors. These Petitioners pray that writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Fifth Circuit entered in this proceeding on April 21, 1978. The names and identities of the Respondents Nolan Estes, et al (which include the Superintendent and Board of Education of the Dallas Independent School System ("DISD")), who have previously filed a similar petition for writ of certiorari with this Court (Docket No. 78-253, August 14, 1978) and the many other parties Respondent as well as Amicus Curiae, are set forth in Appendix A to Respondents Nolan Estes, et al's petition for writ of certiorari (the DISD Petition).

OPINION BELOW

The opinions, orders and judgment of the District Court are set forth in Appendix B (pages 4a-129a) to the DISD Petition which includes styles and docket numbers, and are reported in part at 412 F. Supp. 1192. The opinion of the Court of Appeals is set forth in Appendix C (pages 130a-146a) to the DISD Petition which includes styles and docket numbers, and is reported at 572 F. 2d 1010. Additional references to petitions for rehearing and motion for stay at mandate are as set forth in the DISD Petition, p. 2.

JURISDICTION

As stated in the DISD Petition, the judgment of the Court of Appeals was entered on April 21, 1978, with a timely Petition for Rehearing being denied on May 22, 1978, therefore this petition for writ of certiorari has been filed within ninety days from that date. This Court's jurisdiction is invoked under the provisions of 28 U.S.C. §1254(1).

QUESTIONS PRESENTED

Respondents Nolan Estes, et al correctly state in the DISD Petition that among the issues before the Courts below was the constitutionality of the remedy formulated by the District Court for the elimination of vestiges of the state-imposed dual school system in the large urban school system which is the DISD. However, these Petitioners present the following additional questions with respect to the constitutionality of the remedies formulated below by the District Court:

Whether the formulation of a desegregation plan to eliminate unconstitutional vestiges of a dual school system is required under the equal protection clause where the only fact finding supporting the existence of unconstitutional vestiges of a dual system was the fact of the existence of "many one race schools"? *Swann v. Charlotte-Mecklenburg Board of Education,* 402 U.S. 1 (Swann); *Washington v. Davis,* 426 U.S. 229; *Austin Independent School District v. United States,* 429 U.S. 990 (Austin II); *Dayton Board of Education v. Brinkman,* U.S. (97 S.Ct. 2766) (Brinkman).

Whether the continuation, encouragement and preservation of the naturally integrated schools should be a guiding principle in the formulation of a desegregation plan as compared with the controlling principle suggested by the Court of Appeals of eliminating all one race schools, where the District Court has made findings that large areas of an urban school district are naturally integrated, that is integrated because of changes in housing patterns, thereby making it difficult to fashion a desegregation plan through the use of noncontiguous assignment and transportation of students?

Whether a desegregation plan's effects upon efforts of urban renewal and rehabilitation of the inner-city neigh-

borhoods particularly those which are naturally integrated or trending towards predominantly minority population, should be a factor in the fashioning of a constitutional remedy for removal of vestiges of a dual school system?

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States provides in pertinent part as follows:

> ". . . nor shall any State . . . deny to any person within its jurisdiction equal protection of the laws."

STATEMENT OF THE CASE

These Petitioners agree that the Statement of the Case in the DISD Petition, particularly the discussion of the recognition of the careful study and consideration given by the District Court to this case and the fashioning of the desegregation plan remedy, is correct as far as it goes. However, further discussion of the District Court's findings, formulation and implementation of the plan is necessary to understand the questions presented.

1. Findings regarding vestiges of a dual system.

The only finding by the District Court of vestiges of a dual system in this proceeding is that set out in his Memorandum Opinion filed July 16, 1971. The Memorandum Opinion is reproduced as Appendix A. In summary, one paragaph of that opinion holds that because of the statistics showing a preponderance of Anglo or Black students in various schools of the DISD as presented in the summer, 1971 hearings, all vestiges of the dual system had not been eliminated from the DISD at that time. From that time on no other findings have been made by the District Court identifying any vestiges of a dual system remaining in the DISD, nor has there been any finding

at any time that the reason for any all-Black schools was unconstitutional state action.*

2. Findings of no vestiges of a dual system.

In the Court's Memorandum Opinion of March 10, 1976, at the conclusion of the remedy phase of the hearings at that time, the Court refers to vestiges and the removal of vestiges but never states what they were. However, in his Opinion and Order of March 10, 1976, the District Court made findings with respect to the *nonexistence* of vestiges of a dual system in naturally desegregated areas of the DISD. Specifically the Court said:

> "As mentioned above, there is a substantial number of schools in the DISD in which the racial makeup of the student population reflects naturally integrated housing patterns. Two groups of intervenors represent parents and students living in several of these residentially integrated areas — namely the Strom Intervenors, representing Western Oak Cliff and Pleasant Grove, and the Brinegar Intervenors, representing East Dallas. These intervenors maintain that where integration in schools has been achieved through natural housing patterns, the present student assignments should be retained since *no vestiges of a dual system remain in those areas.* The court is in agreement with this concept. There is no denial of the right of educational opportunity in these areas, and, as all parties recognize, there would be no benefit, educational or otherwise, in disturbing this trend towards residential integration." (emphasis added)

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*In the July 16, 1971 Memorandum Opinion the Court specifically finds that the Plaintiffs did not sustain the burden showing that there was some form of de jure segregation against Mexican Americans as an ethnic minority, though the Court did say that Mexican Americans would be taken into consideration in any plan or remedy.

DISD Petition, Appendix B, p. 36a.

In an earlier portion of the same Opinion and Order the District Court stated:

> "Although the DISD in 1975-76 cannot be considered to be wholly free of the vestiges of a dual system, significant strides in desegregation have been made since the court's 1971 order as a result of natural changes in residential patterns in the past three years. In the 1970-71 school year, 91.7% of all Black students in the DISD attended predominantly minority schools, whereas in the 1975-76 school year, the percentage had dropped to 67.6%. Testimony during the hearing showed that large areas of Dallas which formerly reflected segregated housing patterns are now integrated, namely Western Oak Cliff, Pleasant Grove, East Dallas, the area of North Dallas included in the attendance zone for Thomas Jefferson High School."

DISD Petition, Appendix B, pp. 14a-15a.

The District Court in its plan concluded that those areas of the DISD which were naturally integrated should not be interfered with or changed as part of the desegregation plan and in fact those areas were not interfered with. Some minimal transportation of Anglos and minority students *into* naturally integrated areas was accomplished at grade 4-6 centers, which was not deemed to be interference. The District Court rejected the contentions under plans presented by the Plaintiffs and others which, while giving lip service to the concept that naturally integrated areas should be preserved, in actual effect would have resulted in transportation of many students, Anglo and minority, out of naturally integrated areas to other parts of the DISD.

3. Effect of Desegregation Plan on urban renewal and rehabilitation of inner-city neighborhoods in Dallas.

In making his decision not to interfere with the naturally integrated areas the District Court had the benefit of substantial evidence of the potential disruptive effect a plan providing for transportation of students out of naturally integrated areas would have, particularly in inner-city areas. The evidence showed that the City of Dallas in combination with private groups and institutions is conducting large scale efforts at urban renewal and rehabilitation. Attracting and retaining middle income families of all races who have the skills and resources to upgrade and maintain homes and businesses and secure the necessary and political and community support for rehabilitation projects is considered by the urban planning experts to be an essential part of these efforts. In Dallas, this of necessity means attracting Anglos to these neighborhoods and encouraging natural integration. Perception of the quality of the schools is an important factor in retaining and attracting into these neighborhoods middle income individuals and families, Anglo or minority. Fear of violence, disruption, inferior resources in the schools, play a part in this whether or not the fears are justified. The urban experts testified that the school desegregation plan could have a positive impact on attracting and retaining middle income families, Anglo and minority, provided the Plan was perceived as improving the quality of educational opportunities in these inner-city areas. But, they also testified that such a plan, if it included transportation of students out of these areas would have a negative effect on the desired in-migration and retaining of these middle income families.

4. Trend toward either naturally integrated or predominantly minority schools.

It should be emphasized that the plan was fashioned by the District Court in the factual context of a school district which had not assigned any students throughout the dis-

trict after 1965 without the federal court's approval. In that same period a large number of schools became one race or predominantly minority schools. An example was Carter High School in Oak Cliff, which in 1970 had an Anglo population of 96.6%, no Blacks, and a Mexican American population of 3.1%. As part of the desegregation remedy ordered in 1971, Black students were transported into Carter High School. By 1975 Carter High School had become 30.5% Anglo, 65.2% Black, and 3.8% Mexican American, with most of the Black students residing in the school zone. Similar situations occurred with respect to Kimball High School. Indeed, by the end of that same period no school in the DISD remained all White or Anglo (though several still did not meet the Court's statistical definition of becoming naturally integrated). DISD Petition, Appendix B, pp. 43a and 44a, shows the trend in population for junior and senior high schools 1970-1975. As is made clear in reports being filed by the DISD with the District Court, this trend toward natural integration in the various schools of the DISD is still continuing and is projected to continue.

5. The District Court recognized the DISD's efforts to improve educational opportunities for all students and in particular to meet the special needs of minority students.

Further, the District Court recognized that the practicalities of an equitable plan required community support if the plan was not to result in an actual deterioration of educational opportunities for all students. The District Court recognized the concern of parents for the welfare and education of their children exists wholly without regard to race, ethnic origin or economic status and that concern must be dealt with for a plan to work (*Austin II*).

Indeed, the District Court had the benefit of testimony, much of it by the Plaintiffs' own witnesses, that the DISD

had progressed farther than most school districts in the United States in special education programs for minority students. For example, on cross-examination, Dr. Jose Cardenas, a decidedly hostile witness, admitted that the DISD programs of bilingual education were better than any other programs he knew about. Assistant School Superintendent Evonne Ewell, herself a Black educator, in response to questions about the quality of educational materials used in the DISD, and the need to eliminate racially prejudicial materials and to improve the materials for use with minority students, stated that the DISD had had to fashion its own written materials because of the unavailability of those materials from other sources and that they were in her judgment the best available, though admittedly not what she wanted them to be.

Dr. Francis Chase, a consultant to the DISD and a former chairman of the department of education at the University of Chicago, helped prepare a comprehensive report about the DISD, some 200 pages in length (the "Chase Report"), about which he testified extensively. The Chase Report suggests that in many areas of education and administration the DISD, while not perfect, was "either preeminent or close to the top among public school systems." For example, Dr. Chase testified that the research and evaluation techniques and programs in the DISD were the best available in a school district to his knowledge anywhere in the world. He indicated that there was a gap between interest and achievement but the DISD was making a good faith effort to close the gap. The Chase Report recites as other examples of excellence the commitment to and heavy investment in curriculum design, development and implementation, the number and variety of innovations initiated and the frank acknowledgment of barriers to equal educational opportunities followed by

constructive measures to correct the situation, such as support for inner-city renewal projects. Based upon this and much other testimony and evidence, the District Court found:

> "The DISD has acted in good faith since this Court's order in 1971 and has made reasonable efforts to fulfill the obligations imposed by that order. The DISD has further taken good faith steps to eradicate inequality in educational opportunity which has previously existed in the DISD. Had the DISD not shown a willingness to improve the quality of education for all its students, and especially those in the minority areas which previously had been neglected, this court might feel impelled to adopt a different remedy."

DISD Petition, Appendix B, p. 40a.

6. District Court sought and obtained community help in formulating and implementing a desegregation plan, and in doing so accomplished a highly sophisticated balancing of the many tools available and competing ideas and interests of various groups.

In this context the District Court, recognizing the need for community involvement and support of any desegregation plan, set out to cause such a plan to come into existence which represented a careful balancing of all community interests. The result was the Dallas Alliance Plan which was eventually adopted by the Court as is described in the DISD Petition.

The plan while it does involve interference with various prerogatives of the school board, such as in the areas of personnel and accountability, nevertheless represented a careful balancing of many varied desegregation remedies and a sophisticated interplay and working out of the

problems and desires of Anglos, Mexican Americans and Blacks. The Dallas Alliance Task Force was made up of seven Anglos, seven Mexican Americans, six Blacks, and one American Indian, and represented a mix of lawyers, blue collar workers, civic leaders, clergymen, housewives, governmental professionals and educators. It had a paid staff and an executive director who is a well regarded educator, Dr. Paul Geisel. It had the support of and was an arm of the Dallas Alliance itself, which is an organization of most of the community and service organizations in Dallas, and is designed to serve as a catalyst to stimulate and encourage combined efforts of community groups in seeking resolution of urban problems affecting Dallas. The racial composition of the Dallas Alliance's board reflects the ratio of the city's population.

As a result of this balancing of interests and work with community groups, all major Black, Anglo and Mexican American organizations in Dallas endorsed the District Court's plan, with the exception of the N.A.A.C.P. branches which were the Appellants in the Court of Appeals (these do not include all N.A.A.C.P. branches in Dallas). Indeed, the DISD itself accepted it gracefully and without protest, though it felt that some of its non-student assignment prerogatives were interfered with. Indeed, the people of Dallas accepted the plan and in appropriate elections authorized substantial bond financing for construction under the plan in spite of the declining Anglo enrollment in the schools. (DISD Petition, p. 5)

7. Implementation of the plan was nonviolent and did not polarize the community.

The plan's implementation was characterized by nonviolence. While it is reasonable to suppose that the implementation of the plan further aggravated the decrease of

Anglo students in the DISD,* as a result of the political and social atmosphere surrounding the plan, which was and is essentially one of nonviolence and nonpolarization, the DISD has felt encouraged enough to adopt publicly policies designed to promote the return of middle income people, again in Dallas primarily Anglos, to the DISD. While such programs have not shown clear results, they have greater promise than would have otherwise been the case had the Court not been so judicious in fashioning the desegregation plan.

In the face of this background which was explored and generally favorably discussed by the Court of Appeals, the Court of Appeals has returned this case to the District Court for findings on the mechanical questions of time and distance of transportation of students, and with respect to the nonassignment of students among the high schools.

Indeed, the District Court did consider time and distance and did consider the assignment of students generally, including in the high schools.

REASONS FOR GRANTING WRIT OF CERTIORARI

The Court of Appeals erred in disregarding the complex and sophisticated balancing of interests by the District Court by ordering a mechanistic survey of time and distance studies.

Furthermore, the Court of Appeals order in the context of this case cannot help but put pressure on the District Court to and possibly implies a need to mechanically assign

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* DISD Petition, p. 7 – By March 11, 1978, the Anglo student population had dropped from the 1971 percentage of 69% to 35.38% of the total student population (which itself is declining) and to even a lower percentage in lower grades. While exact statistics are difficult to come by, it would be conceded the actual population of the DISD is predominantly Anglo.

and transport students out of naturally integrated areas to cause a statistical balancing of minority groups in various Dallas schools. Such actions would not do anything but exacerbate and continue the trend of all schools in the DISD, including those in now existing naturally integrated areas, toward becoming predominantly minority student schools. Such a remedy would not right any unconstitutional wrongdoing and thus should be condemned. (*Swann, Austin II*)

Further, the continuation of court hearings increases the uncertainty surrounding desegregation in the DISD and thus damages the existing healthy trend towards racial peace and equal opportunity in Dallas and the DISD. Once this trend is reversed or interfered with, the damage may for all intents and purposes be irreversible, as has been the case in other cities in this country. The testimony in the District Court of the former head of the Atlanta school system and a former official of the Memphis school system dramatically emphasized the possibility of simply resegregating a school system to a predominantly minority population, which hardly seems a meaningful remedy.

If this case must be sent back to the District Court it should be done so with a clear statement of what the District Court must consider in fashioning a desegregation remedy.

Specifically the District Court should be ordered to make the findings required by *Washington v. Davis, Austin II,* and *Brinkman.* First, does a constitutional violation exist and, if so, specifically what is it, that is, what are the vestiges of the state-imposed dual system which are to be eliminated. Second, how does any remedy which is ordered by the District Court fit the specific constitutional wrongs which need righting.

It is reasonable to expect, in view of the statistics of student enrollment in the DISD which show there are few, if any, remaining all-Anglo schools, and which show that many predominantly minority schools became such because of changing housing patterns within the period after this proceeding began or prior thereto when student assignment was controlled by the federal courts, that the District Court will find few, if any, remaining vestiges of an unconstitutional dual system. In fact, time plus the existing court orders and the DISD's good faith efforts may have healed any unconstitutional injuries which have existed in the past.

Further the District Court should be instructed that the remedies sanctioned by *Swann* and subsequent cases do not prohibit and in fact require the Court to consider the impact the desegregation plan ordered by the court may have on other community activities, such as urban rehabiii-tation, which influence natural integration through changes in housing patterns as such actions in and of themselves must have a positive effect upon the removal of any existing vestiges of the unconstitutional dual system. In this regard, this Court should instruct the lower courts that the remedies discussed in *Swann* for removing vestiges of an unconstitutional dual school system do not include assignment and transportation of students out of naturally integrated areas of the affected school district.

CONCLUSION

For the foregoing reasons this Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

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Dated: August 18, 1978

PROOF OF SERVICE

I, James A. Donohoe, attorney for Petitioners herein, a member of the Bar of the State of Texas, and an applicant for membership of the Bar of the Supreme Court of the United States, hereby certifies that on the 18th day of August, 1978, I served three copies of the foregoing Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit upon the following Counsel for Respondents:

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by mailing same to such Counsel and Respondent pro se at their respective addresses and depositing the same in a United States mail box in an envelope properly addressed to such addresses with first class postage prepaid.

I further certify that all parties required to be served have been served.

JAMES A. DONOHOE
Attorney for Petitioners

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

EDDIE MITCHELL TASBY, et al
vs.
DR. NOLAN ESTES, et al

CA 3-4211-C
Filed July 16, 1971

MEMORANDUM OPINION

It is difficult to believe in this day and time that anyone anywhere would be surprised, shocked or amazed at this case or at the pendency of this law suit. It would be difficult for me to believe that anyone anywhere would be surprised, shocked or amazed by what I am about to rule in this case at this time.

On May 17, 1954, the Supreme Court of the United States, in *Brown vs. Board of Education,* said, "In the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal. Therefore we hold that the plaintiffs and others similarly situated . . . are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the 14th Amendment." In 1955 the Supreme Court handed down its opinion in Brown #2 ordering desegregation of schools with "deliberate speed".

In the 16 years since Brown #2 little progress had been made and the Courts were confronted with actions by School Boards that used every device imaginable to evade and avoid their responsibilities in this regard.

In 1968 the Supreme Court in *Green vs. County School Board,* pointed out this lack of progress and required that "The burden on a school board today is to come forward with a plan that promises realistically to work . . . *now* . . . until it is clear that state imposed segregation has been completely removed. *Green vs. County School Board,* 391 U.S. 430.

Despite this plain language in 1969 there was before the Court fresh evidence of the dilatory tactics of many school authorities and the Court, in *Alexander vs. Holmes County Board of Education,* 396 U.S. 19, held that the remedy must be implemented *forthwith.*

On April 20, 1971, Chief Justice Berger of the Supreme Court delivered for a unanimous court his landmark opinion in *Swan vs. Charlotte-Mecklenberg Board of Education* which said, among other things, the objective today remains to eliminate from the public schools all vestiges of state imposed segregation.

When it appears as it clearly does from the evidence in this case that in the Dallas Independent School District 70 schools are 90% or more white (Anglo), 40 schools are 90% or more black, and 49 schools with 90% or more minority, 91% of black students in 90% or more of the minority schools, 3% of the black students attend schools in which the majority is white or Anglo, it would be less than honest for me to say or to hold that all vestiges of a dual system have been eliminated in the Dallas Independent School District, and I find and hold that elements of a dual system still remain.

The School Board has asserted that some of the all black school have come about as a result of changes in the neighborhood patterns but this fails to account for many

others that remain as segregated schools. The defendant School Board has also defended on the ground that it is following a 1965 Court order. This position is untenable.

The *Green* and *Alexander* cases have been handed down by the Supreme Court since the 1965 order of the Court of Appeals for the Fifth Circuit to the Dallas Independent School District. There have been too many changes in the law even in the Fifth Circuit and it is fairly obvious to me that the defendant School Board and its administration have been as aware of them as I. For example, the case of *Singleton vs. Jackson Municipal Separate School District* was handed down in December of 1969. This was the case in which the Court ordered, among other things, desegregation of faculty and other staff, majority to minority transfer policy, transportation, an order with reference to school construction and site selection, the appointment of bi-racial committees. The Dallas School Board has failed to implement any of these tools or to even suggest that it would consider such plans until long after the filing of this suit and in part after the commencement of this trial.

There is another question which this Court must decide and that has to do with the complaint of those plaintiffs who brought this suit as Mexican-Americans in behalf of themselves and all others similarly situated.

It is my opinion and I so hold that Mexican-Americans constitute a clearly separate and clearly identifiable ethnic group. No one ever had any doubt about Lee Trevino's ethnic origin and this is true of many many others. But as was said by Judge Jack Roberts of the Federal Court in Austin, "But the mere existence of an ethnic group, regardless of its racial origin, and standing alone, does not establish a case integrating it with the remainder of the school population. Rather, the plaintiff must show that

there has been some form of de jure segregation against the ethnic minority." And I find that the plaintiff Mexican-Americans have failed in maintaining the burden of proof. I would point out, however, that this particular ruling may not be too significant in the light of what I propose to do in this regard and that is that any plan or remedy must take the Mexican-American into consideration and there will be the appointment of a tri-ethnic committee as distinguished from a bi-racial advisory committee. In this connection, I would advise that I will appoint Rev. Zan Holmes, Rene Martinez, and Attorney David Kendall on this committee, if they are willing to serve.

I have heretofore indicated during this trial that I would call upon the Board of the Dallas Independent School District for its plan to eliminate segregation in its school district and that I would expect that done now. Judge Woodrow Seals in Corpus Christi was confronted by a board that stood like a balky steer in the road and refused to do anything and he pointed out that he was deprived of the expertise of the Board of Education and its administrative personnel in the fashioning of a plan and order of the Court that would eliminate the dual system. Judge Jack Roberts in Austin has called upon the parties, both plaintiffs and defendants, to file with the Court an adequate and sufficient plan. Judge Leo Brewster in Fort Worth has done the same thing. Defendant Dallas Independent School District has throughout this trial asserted its good faith and its willingness to cooperate with the Court and has also stated that it is opposed to segregation. Therefore, I direct that the Dallas Independent School District Board file with this Court its plan for the establishment of a unitary school system by 10:00 A.M. next Friday, July 23, 1971. It is obvious to me that the Board has been consider-

ing these matters for some time and that it has done some soul searching in this regard, as it should do.

Now all of this is not as grim as it sounds. I am opposed to and do not believe in massive cross-town bussing of students for the sole purpose of mixing bodies. I doubt that there is a Federal Judge anywhere that would advocate that type of integration as distinguished from desegregation. There are many many other tools at the command of the School Board and I would direct its attention to part of one of the plans suggested by TEDTAC which proposed the use of television in the elementary grades and the transfer of classes on occasion by bus during school hours in order to enable the different ethnic groups to communicate. How better could lines of communication be established than by saying, "I saw you on TV yesterday," and, besides that, television is much cheaper than bussing and a lot faster and safer. This is in no sense a Court order but is merely something that the Board might consider.

At this point I want to make a few remarks about TEDTAC. That agency has been harassed, intimidated, pressured and abused in many other ways, and it did not deserve this type of treatment. The politicians have made their speeches, have called their office demanding names, suggesting loss of employment sometimes subtly and sometimes not so subtly. Some of the staff of TEDTAC have been obliged to unlist their phone numbers in order to escape harassing telephone calls. I have considered the entry of an order in this case that such harassment, intimidation and threats will be considered an obstruction of justice and therefore in contempt of this Court. It was TEDTAC which first suggested the "confluence of cultures" concept as was testified to by Dr. Estes. TEDTAC has worked in many of these matters and sincerely desires

to be of assistance to the School Boards that are confronted with these problems. I would also suggest that the School Board could well hear from the plaintiffs' representatives as well as the ones who heretofore have been named as members of the tri-ethnic committee of this Court if they are willing to serve.

I would suggest that the Dallas Board of Education could make the "confluence of cultures" an actuality rather than a catch-phrase or a dream and that it could be of vast help to the City of Dallas in deserving its Chamber of Commerce appellation of "City of Excellence."

W. M. TAYLOR, JR.

UNITED STATES DISTRICT JUDGE

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